

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
(Wilmington)
No. 7:11-CV-85-BR

LIFE INSURANCE COMPANY OF)
NORTH AMERICA,)
)
Plaintiff,)
)
v.)
)
)
JOANN BARDEN, BRIGID A. FORD,)
)
Defendant.)
)
)

ANSWER

NOW COMES Defendant, Brigid A. Ford, by and through counsel, and, answering the Complaint for Interpleader under Federal Rule 22, in this cause, hereby alleges and says:

1. Paragraph 1 of the Complaint is admitted upon information and belief.

2. Paragraph 2 of the Complaint is admitted upon information and belief.

3. Paragraph 3 of the Complaint is admitted.

4. Paragraph 4 of the Complaint is admitted.

5. In reply to Paragraph 5 of the Complaint, it is admitted upon information and belief that Defendant, Joann Barden is a resident and citizen of Jacksonville, North Carolina, and the wife of the Deceased. The remaining allegations contained in Paragraph 5 are denied.

6. Paragraph 6 of the Complaint is admitted upon information and belief.

7. Paragraph 7 of the Complaint is admitted.

8. Paragraph 8 of the Complaint is admitted.

9. Paragraph 9 of the Complaint is admitted.

10. Paragraph 10 of the Complaint is admitted upon information and belief.

11. In reply to Paragraph 11 of the Complaint, it is admitted that the Beneficiary Designation Form identified Brigid A. Ford, the Deceased's sister, as beneficiary to receive Deceased's benefits. The remaining allegations contained in Paragraph 11 are denied.

12. In reply to Paragraph 12 of the Complaint, Defendant Ford alleged that the Policy in question is the best evidence of its provisions and speaks for itself.

13. Defendant Ford lacks information sufficient to form a belief as to the allegations of Paragraph 13 and therefore denies the same.

14. Paragraph 14 of the Complaint states a legal conclusion which Defendant Ford is required neither to admit nor deny.

15. Defendant Ford lacks information sufficient to form a belief as to the allegations of Paragraph 15 and therefore denies the same.

AFFIRMATIVE DEFENSES

16. Defendant Ford alleges that the intent of the Deceased is clearly reflected in all documents provided to Cubic Corporation and LINA.

17. Defendant Ford alleges that she is the "insured's named beneficiary" in that her name was "on file at the time of payment" as required by the terms of the Policy.

18. Defendant Ford further alleges that the language of the Policy does not require that the Beneficiary Designation Form be signed or dated by the insured.

19. Defendant Ford further alleges that the Beneficiary Designation Form and Employee Information Form were provided to the Deceased as a package and that the Deceased signed the second page of the package on July 23, 2010, with the intention of naming Defendant Ford as his named beneficiary.

20. That the Deceased orally advised Defendant Ford and others on more than one occasion that Defendant Ford was the beneficiary of his policy.

21. That as a consequence of the way the first page of the package sent out to the Deceased was printed, it was unclear that the first page required a separate signature line or any signature at all. In the preparation of the form, the signature line was in no way set apart, made bold or otherwise made clearly distinguishable.

22. Deceased in his own handwriting wrote the Defendant Ford's name as "Primary Beneficiary for All Insurance Plans." An employee of Cubic typed up the form as Deceased wrote it and sent it to LINA as a package with the second page referred to herein.

23. The first page of the package is identified as Exhibit B of the Complaint, and the second page of the package is identified as Exhibit C of the Complaint.

24. Defendant Ford further alleges that under all of the facts and circumstances of this case, the "default" provisions of the Policy should not apply in light of the clear intent of the Deceased to name her beneficiary of the proceeds of the Policy, and therefore Defendant Ford

alleges that the proceeds of the Policy are properly payable to her as named beneficiary.

CLAIM FOR RELIEF

WHEREFORE, Defendant Ford prays for the following relief:

1. That the Court enter an order directing the Clerk of Court to pay the proceeds of the Policy to Defendant Ford.
2. Defendant Ford be awarded her costs, expenses and reasonable attorney fees incurred in this action from Plaintiffs and/or any of the other defendants in this case.
3. For such other and further relief as the Court deems just and proper.

Respectfully submitted on the 27th day of May, 2011.

MCLAWHORN & ASSOCIATES, P.A.

/s/ Charles L. McLawhorn, Jr.
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CERTIFICATE OF SERVICE

I, Charles L. McLawhorn, Jr., hereby certify that a copy of the foregoing ANSWER was filed electronically with the Court with notice of activity to be generated and transmitted to counsel of record, and deposited in the United States Mail, postage prepaid, addressed as follows:

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This is the 27th day of May, 2011.

MCLAWHORN & ASSOCIATES, P.A.

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